IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

LPA No. 218 of 2006
Date of Decision: 03.04.2007

State of Haryana and others **.....Appellants through**
Mr. Randhir Singh,
Addl. Advocate General,
Haryana

versus

Roop Lal Mehta and others

.....Respondents through
Mr. Som Nath Saini,
Advocate

CORAM: HON'BLE MR. JUSTICE VIJENDER JAIN,
CHIEF JUSTICE
HON'BLE MR. JUSTICE RAJIVE BHALLA

1. **Whether Reporters of Local Newspapers may be allowed to see the judgment ?**
2. **To be referred to the Reporters or not ?**
3. **Whether the judgment should be reported in the Digest ?**

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Vijender Jain, Chief Justice (Oral)

CM No. 993 of 2006

C.M. allowed. Delay of 377 days in filing the appeal is condoned.

LPA No. 218 of 2006

By way of this appeal, the State of Haryana impugns the order of the learned Single Judge dated 17.8.2005 allowing the writ petition, as also the order dated 25.8.2006, whereby an application for review of the order dated 17.8.2005 was dismissed.

Heard.

Labha Mal, predecessor-in-interest of the appellants herein was admittedly a displaced person. It is not denied that his land was wrongly sold by the Rehabilitation Department. On 20.5.1999, Chief Settlement Commissioner, Haryana ordered the Rehabilitation Department to provide alternative land. As these directions remained on paper, the petitioners filed a Civil Writ Petition No. 6479 of 2000, wherein the respondents were directed to allot the land to the petitioners as per their entitlement, within six months. This order also failed to elicit any response, compelling the appellants to file another writ petition. The respondents, in response to the second writ petition, contended that land falling in Khasra No. 3055/2 and the adjoining land could not be allotted as it was sub-urban land and that one Dalip Singh son of Tara Singh, an unauthorised occupant had filed an application for allotment of the aforementioned land, under a policy framed by the State of Haryana, that entitled unauthorised occupants of public land to allotment of land 'in their unauthorised occupation'. Vide the impugned order, learned Single Judge accepted the writ petition and held that 4 Kanal of land was allotted to the appellants in a far off village, just before filing of the writ petition. It was also held that an unauthorised occupant could not be preferred over the appellants. A violator of law could not be rewarded in preference to a person vested with legal rights to the said property. Thereafter, the appellants filed a review petition praying that pursuant to a notification issued by the government, all powers to allot the land had been withdrawn. The said application was dismissed.

We have heard learned counsel for the appellants and express our serious anguish at the harassment that the respondents have had to endure for the last three decades. It is surprising that the State of Haryana

without challenging the decision of this Court dated 23.05.2000 in CWP No. 6479 of 2000 directing allotment, have taken up a stand that land is not available for allotment as it has to be allotted to an unauthorised occupant, who has filed an application under a policy framed by the government. We cannot appreciate this stand, where government seeks to clothe usurpers of public land with rights in preference to individuals whose legal rights stand crystalized, and recognised by judicial pronouncement. The respondents' claim has not been challenged on merits and therefore, there is no merit in the present appeal. The respondents' rights stood crystalized and accepted by the State as it has failed to impugn various orders, upholding their rights and directing allotment. Any subsequent notification or order would have no effect on their rights. Similarly, the dismissal of the petition for review also does not call for interference.

Dismissed.

(VIJENDER JAIN)
CHIEF JUSTICE

(RAJIVE BHALLA)
JUDGE

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